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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,198	05/04/2001	Stephen Robert Tomassetti	69493	9029
22242	7590	09/10/2004	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			WILSON, ROBERT W	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/849,198	TOMASSETTI ET AL.
	<b>Examiner</b> Robert W Wilson	<b>Art Unit</b> 2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 May 2001.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4 and 15 is/are rejected.
- 7) Claim(s) 2--3, 4-14, & 16-25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/24/01</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

**1.0** The application of Tomassetti et. al. entitled INITIALIZATION METHOD FOR AN ENTERTAINMENT AND COMMUNICATIONS NETWORK which was filed on 5/4/01 without foreign priority was examined. Claims 1-25 are pending.

### ***Claim Rejections - 35 USC § 103***

**2.0** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3.0** **Claims 1 & 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et. al (U.S. Patent No.; 4,866,702).

Referring to **Claim 1**, Shimizu et. al. (U.S. Patent No.: 4,866,702) teaches: A method of initializing a peer-to-peer network of devices (The applicant broadly claims “initializing a peer-to-peer network of devices”. The examiner interprets setting up communication between two terminals which are peers through a LAN Hub as a method of initializing a peer-to-peer network device which is shown in Fig 1 and per col. 11 lines 10-42)

At least one of said devices remotely located at a remote node (USER TERMINAL 72-1 or remote node is connected to a Hub as shown in Fig 1 and per col. 11 lines 10-42)

Said remote terminal being connected to a hub port on said network (USER TERMINAL 72-1 or remote node is connected to a Hub on the network as shown in Fig 1 and per col. 11 lines 10-42)

a) scanning remote nodes for nodes requesting communication channel addresses for unassigned active communication channels (The CTRLR 90 per Fig 17 detects a call request as well as keeps track of available channels or scans per col. 11 lines 14-42)

b) identifying a requesting node for channel address assignment (The CTRLR 90 per Fig 17 is able to make the channel assignment for the terminal per col. 11 lines 14-42.)

c.) assigning an unassigned channel address to said identified node (The CTRLR 90 per Fig 17 assigns available channel or unassigned channels for communication between the terminals per col. 11 lines 14-42.)

d) repeating steps (b) and (C) until all requesting nodes have received channel addresses for all corresponding active communication channels (The apparatus shown in Fig 1 which interconnections the terminals is a hub for star topology local area network of terminals per Abstract. It would have been obvious to one of ordinary skill in the art at the time of the invention that the hub for a star topology local area network would repeat steps (b) and (C) for other terminals or nodes in order for the invention to work.

Shimizu does not expressly call for: identifying a requesting node for channel address assignment but teaches the CTRLR 90 per Fig 17 is able to make the channel assignment for the terminal per col. 11 lines 11-42.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the CTRLR 90 per Fig 17 being able to make the channel assignment for a terminal performs the same function as identifying a requesting node for channel address assignment.

Referring to **Claim 15**, Shimizu et. al. (U.S. Patent No.: 4,866,702) teaches: A method of initializing a peer-to-peer network of devices (The applicant broadly claims “initializing a peer-to-peer network of devices”. The examiner interprets setting up communication between two terminals which are peers through a LAN Hub as a method of initializing a peer-to-peer network device which is shown in Fig 1 and per col. 11 lines 10-42)

At least one of said devices remotely located at a remote node (USER TERMINAL 72-1 or remote node is connected to a Hub as shown in Fig 1 and per col. 11 lines 10-42)

Said remote terminal being connected to a hub port on said network (USER TERMINAL 72-1 or remote node is connected to a Hub on the network as shown in Fig 1 and per col. 11 lines 10-42), said method comprising:

a) identifying one hub port as a bus master, said bus master asserting an initialization signal to being network initialization (The hub port that USER TERMINAL 72-1 allows communication to the CTRLR 90 per Fig 17 or the bus master. The CTRLR 90 per Fig 17 assigns the channels or initializes)

a) scanning remote nodes for nodes requesting communication channel addresses for unassigned active communication channels (The CTRLR 90 per Fig 17 detects a call request as well as keeps track of available channels or scans per col. 11 lines 14-42)

b) identifying a requesting node for channel address assignment (The CTRLR 90 per Fig 17 is able to make the channel assignment for the terminal per col. 11 lines 14-42.)

c.) assigning an unassigned channel address to said identified node (The CTRLR 90 per Fig 17 assigns available channel or unassigned channels for communication between the terminals per col. 11 lines 14-42.)

d) repeating steps (b) and (C) until all requesting nodes have received channel addresses for all corresponding active communication channels (The apparatus shown in Fig 1 which interconnections the terminals is a hub for star topology local area network of terminals per Abstract. It would have been obvious to one of ordinary skill in the art at the time of the invention that the hub for a star topology local area network would repeat steps (b) and (C) for other terminals or nodes in order for the invention to work.

Shimizu does not expressly call for: identifying a requesting node for channel address assignment but teaches the CTRLR 90 per Fig 17 is able to make the channel assignment for the terminal per col. 11 lines 11-42.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the CTRLR 90 per Fig 17 being able to make the channel assignment for a terminal performs the same function as identifying a requesting node for channel address assignment.

#### *Claim Rejections - 35 USC § 112*

**4.0** The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**5.0** **Claim 4** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Referring to Claim 4, Where in the specification is a “left frame” and a “right frame” defined?

**Special Note: Because of the reference to the “left frame” and a “right frame” the claim was so unclear that a search of the prior art could not be done.**

***Claim Rejections - 35 USC § 112***

**6.0** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 4** is rejected relative to 112/2<sup>nd</sup> paragraph because the metes and bounds of the claim cannot be assessed.

Referring to claim 4, What is meant by a “left frame” and “right frame”?

***Claim Objections***

**7.0** Claims 15-25 are objected to because of the following informalities:

Referring to Claim 15, On Pg 29 line 5 of the claims the applicant uses the word “being”. The examiner believes that the applicant has made a typographical error and meant to type “begin”.

In addition, Claims 14-25 are objected to because they depend upon Claim 15. Appropriate correction is required.

***Specification***

**8.0** The disclosure is objected to because of the following informalities: The disclosure is objected to because the information relative to the Related Applications on Pg 1 lines 4-13 is incomplete. The examiner recommends that the applicant update the status of the applications cited in the applications. Appropriate correction is required.

***IDS***

**9.0** The information disclosure statement filed 8/24/01 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the applicant did not provide copies of the Non-patent literature but provided web site references or just provide a reference on the 1449 without providing a copy of the reference. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

The examiner recommends that the applicant submit these references if they desire the references to be considered. Refer to signed off IDS attached for further details

***Claim Objections***

**10.0 Claims 2-3, 5-14 and 16-23** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The present invention is directed to a communications method for initialization of a communication between the nodes in order to set up communication between the nodes and also describes detailed limitations in steps which are a part of the initialization.

The closest prior art Shimizu teaches a method for initializing the communications between the nodes but fails to disclose the detailed limitations defined in the dependent claims 2-8 or 16-23.

***Conclusion***

**11.0** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W Wilson whose telephone number is 703/305-4102. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Robert W. Wilson*  
Robert W Wilson  
Examiner  
Art Unit 2661

RWW  
September 7, 2004

*M*

DANG TON  
PRIMARY EXAMINER